

BACKUS, CARRANZA & BURDEN
 3050 SOUTH DURANGO
 LAS VEGAS, NEVADA 89117
 TELE: (702) 872-5555 FAX: (702) 872-5545

Edgar Carranza, Esq.
 Nevada State Bar No. 5902
 Jacquelyn Franco, Esq.
 Nevada State No. 13484
BACKUS, CARRANZA & BURDEN
 3050 S. Durango Drive
 Las Vegas, NV 89117
 (702) 872-5555
 (702) 872-5545 facsimile
ecarranza@backuslaw.com

Attorneys for Defendant
 COSTCO WHOLESALE CORPORATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHELLE CHISM,)	
)	
Plaintiffs,)	Case No. 2:20-CV-967-JAD-BNW
)	
vs.)	
)	
COSTCO WHOLESALE CORPORATION,)	
DOES I – V; ROE CORPORATINS I - X;)	
)	
Defendants.)	
)	
)	

**STIPULATION AND ORDER TO EXTEND DISCOVERY PLAN
 AND SCHEDULING ORDER**

(Fourth Request)

Plaintiff, MICHELLE CHISM, by and through counsel, Peter Angulo, Esq. of the Angulo Law Group, LLC, and Defendant, COSTCO WHOLESALE CORPORATION, by and through counsel, Edgar Carranza, Esq. of the law firm BACKUS, CARRANZA & BURDEN, hereby submit the instant stipulation and order to extend the Discovery Plan and Scheduling Order pursuant to Local Rule II 26-4 as follows:

BACKUS, CARRANZA & BURDEN
3050 SOUTH DURANGO
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1 **I. GOOD CAUSE SUPPORTING THE EXTENSION.**

2 The parties come to this Court seeking a fourth extension of the Discovery Plan and
3 Scheduling Order governing this case. And while the parties appreciate that this Court has
4 previously indicated that “it is not inclined to grant any additional discovery extensions absent
5 extraordinary circumstances establishing good cause” the parties unanimously agree that such
6 circumstances exist in this case so as to warrant the requested extension.
7

8 As this Court is well aware, this lawsuit involves allegations that Plaintiff, MICHELLE
9 CHISM (hereinafter referred to as “Plaintiff” or “Ms. Chism”) fell due to an unspecified condition
10 she encountered while walking down an aisle. The fall resulted in very serious injuries to Plaintiff
11 including traumatic brain injury with cognitive deficits, fractures to her left orbital bone, nasal
12 fracture, bilateral subarachnoid hemorrhages, tentorial subdural hemorrhage for which she was
13 transported to University Medical Center where she was admitted and remained for 28 days.
14

15 On May 11, 2020, Plaintiff filed her Complaint against Costco in the Eighth Judicial
16 District Court for Clark County, Nevada. On May 28, 2020, Defendant, COSTCO WHOLESALE
17 CORPORATION (hereinafter referred to as “Costco”) filed its Answer denying Plaintiff’s
18 allegations and denying all liability for the fall and removed the matter to this Court based on
19 diversity jurisdiction.
20

21 The parties participated in the Fed. R. Civ. P. 26(f) conference on July 2, 2020 and the
22 stipulated Discovery Plan and Scheduling Order was entered by this Court on August 12, 2020.

23 The parties also submitted, and on September 21, 2020 this Court entered, the Stipulated
24 Confidentiality Agreement and Protective Order providing protections for information and
25 material deemed confidential by Costco to help facilitate the exchange of this material during
26 discovery. This agreed upon protective order took several weeks to negotiate and agree to.

27 Since then, the parties have ben engaged in discovery. Initially, they exchanged their
28 respective Fed. R. Civ. P. 26 disclosures. Next, the parties each served a first set of written
discovery requests to each other which have been responded to. Discovery disputes emerged from

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1 the initial wave of written responses, which the parties addressed via a sincere efforts conference
2 and which was successful in resolving the same without the intervention of this Court. As a result,
3 supplemental responses have been served.

4 A second set of written discovery has been served by Costco to Plaintiff for which
5 responses are due next month. The second set of discovery is intended to follow up on and secure
6 additional information based on the responses to the initial set of written discovery and the
7 testimony from the parties secured via their respective depositions.

8 The deposition of Costco Rule 30(b)(6) designee on 19 different topics was taken by
9 Plaintiff. In addition, Plaintiff took the depositions of Costco Administrative Manager, Michael
10 Le, Costco Night Floor Manager, Mark Mans and Costco Front End Supervisor, Taylor Price.

11 Costco has completed the comprehensive deposition of Plaintiff and has noticed the
12 deposition of Plaintiff's boyfriend, Eddiee Diaz, who was with Plaintiff at the Costco warehouse
13 on the day of the fall. Costco is also in the process of noticing the depositions of Plaintiff's sister,
14 Jaime Burns and her three daughters.

15 The shut down and subsequent limitations brought on by the COVID 19 pandemic initial
16 led to some delays in the parties' respective ability to participate in the deposition process. Since
17 those initial delays, the parties have diligently begun deposing the parties and witnesses involved.

18 Moreover, this is a significant personal injury matter that will require significant effort by
19 both parties. Plaintiff has already identified over \$254,000.00 in past medical expenses, unknown
20 future medical expenses, unknown past wage loss claim and unknown future wage loss claim, to
21 name some of the damage components identified thus far. Significant effort will be required to
22 address each of the damage components, and the liability portion of this case.

23 Finally, the fruits of the discovery completed thus far has resulted in the parties beginning
24 to discuss a potential resolution to this case. Additional time granted by this Court will further
25 facilitate the discussions.

26 As the parties are only several months into the discovery process and have meaningfully
27 committed themselves to move discovery forward as expediently as possible, good cause exists to
28 extend the current Discovery Plan and Scheduling Order to allow the parties to continue to move

1 this case forward. Added to the above good cause is the fact that this case is less than 12 months
 2 from its initial filing and no unwarranted delay has been experienced, especially considering the
 3 overlay of the COVID-19 pandemic on top of this case.

4 **II. DISCOVERY COMPLETED TO DATE.**

5 In accordance with LR II 26-4(a), the Parties provide the following statement of discovery
 6 completed to date:

7 A. Plaintiff's Discovery.

- 8 1. Plaintiff's FRCP 26 initial disclosures served 08-03-20.
- 9 2. Plaintiff's First Set of Interrogatories to Costco served 08-12-20.
- 10 3. Plaintiff's First Set of Requests for Production to Costco served 08-12-20.
- 11 4. Plaintiff's First Set of Requests for Admission to Costco served 08-12-20.
- 12 5. Plaintiff's Answers to Costco's First Set of Interrogatories served on 12-07-
 13 20.
- 14 6. Plaintiff's Responses to Costco's Request for Production served on 12-07-
 15 20.
- 16 7. Plaintiff's Supplemental Answers to Costco's First Set of Interrogatories
 17 served on 04-09-21.
- 18 8. Plaintiff's Supplemental Responses to Costco's First Set of Requests for
 19 Production served on 04-09-21.
- 20 9. Deposition of Costco Administrative Manager, Michael Le taken on 03-24-
 21 21.
- 22 10. Deposition of Costco's Rule 30(b)(6) designee taken on 03-25-21.
- 23 11. Deposition of Costco Night Floor Manager, Mark Mans taken on 03-26-21.
- 24 12. Deposition of Costco Front End Supervisor, Taylor Price taken on 03-26-
 25 21.

26 B. Defendant's Discovery.

- 27 1. Costco's FRCP 26 initial disclosures served 10-14-20.
- 28 2. Costco's First Set of Interrogatories to Plaintiff served 10-19-20.

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3. Costco's First Set of Requests for Production to Plaintiff served 10-19-20.
4. Costco's Answers to Plaintiff's First Set of Interrogatories served 10-19-20.
5. Costco's Responses to Plaintiff's First Set of Requests for Production served 10-19-20.
6. Costco's Responses to Plaintiff's First Set of Requests for Admissions served 10-19-20.
7. Costco's Supplemental Responses to Plaintiff's First Set of Request for Production served on 01-08-21.
8. Costco's Supplemental Answers to Plaintiff's First Set of Interrogatories served on 01-08-21.
9. Costco secured independent copies of Plaintiff's medical records via the depositions of custodian of records for each medical provider from January through March 2021.
10. Costco's First Supplement to FRCP 26 disclosures served on 03-25-21.
11. Costco's Second Supplement to FRCP 26 disclosures served o 04-21-21.
12. Deposition of Plaintiff taken on 04-21-21.
13. Costco's Second Set of Interrogatories to Plaintiff served on 04-23-21.
14. Costco Second Set of Requests for Production to Plaintiff served 04-23-21.
15. Costco is securing independent copies of Plaintiff's employment records, tax records, 911 Emergency records and counseling records via custodian of records depositions for the entities involved noticed on 04-22-21.

III. DISCOVERY REMAINING TO BE COMPLETED.

In accordance with LR II 26-4(b), the Parties provide the following statement of discovery remaining to be completed:

A. Plaintiff's remaining discovery.

1. Plaintiff must designate initial experts and produce the required report and materials.
2. Plaintiff must designate rebuttal experts and produce the required report and

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materials.

3. Deposition of Costco's employee of Roxanne Thomas.

4. Deposition(s) of Costco's expert must be taken.

B. Defendant's remaining discovery:

1. Depositions of percipient witnesses must be taken including Eddiee Diaz.

2. Depositions of Plaintiff's family members including Trinity Chism, Payton Chism, Kadie Chism and Jaime Burns.

3. Depositions of Plaintiff's treating providers must be taken including the physicians and staff at UMC who attended to Plaintiff during her 28 day admittance.

4. Costco must designate initial experts and produce the required report and materials.

5. Costco must designate rebuttal experts and produce the required report and materials.

6. Deposition(s) of Plaintiff's expert must be taken.

IV. WHY REMAINING DISCOVERY HAS NOT BEEN COMPLETED.

As referenced above, initially, the limitations related to the COVID 19 pandemic led to some delays and conflicts with counsel's availability/schedule. Nonetheless, good faith efforts were made by both parties to meet the obligations required of both of them.

The parties also initially devoted several weeks to negotiating and ultimately agreeing to the Stipulated Confidentiality Agreement and Protective Order, which was entered on September 21, 2020. By agreeing to the same, the parties hope to facilitate the exchange of confidential and/or proprietary material during discovery which could avoid delays as this case moves forward.

Once the parties embarked on discovery, they have been able to move this matter forward with the appropriate diligence. As detailed above, significant discovery has been completed including the completion of multiple waves of written discovery, securing independent copies of Plaintiff's medical records, completing the party deposition (Plaintiff and Costco's Rule 30(b)(6) designee), completing percipient witness depositions (Michael Le, Marks Mans and Taylor Price).

Despite the diligent efforts, significant discovery remains to be completed.

V. PROPOSED SCHEDULE FOR COMPLETING DISCOVERY.

This request for an extension of time is not sought for any improper purpose or other purpose of delay. The parties respectfully submit that this constitutes good cause for the extension. The following is a list of the current discovery deadlines and the parties' proposed extended deadlines.

Scheduled Event	Current Deadline	Proposed Deadline
Discovery Cut Off	June 21, 2021	August 20, 2021
Amend Pleadings/Add Parties	Closed	Closed
Initial Expert Disclosures	April 23, 2021	June 22, 2021
Rebuttal Expert Disclosures	May 21, 2021	July 20, 2021
Dispositive Motions	July 23, 2021	September 21, 2021
Joint Pre-Trial Order	August 26, 2021	October 25, 2021

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This is the fourth request for extension of time in this matter and no trial date will be impacted by the extension as no such trial date has been set. The parties submit that the reasons set forth above constitute good cause for the requested extension.

DATED this 23rd day of April, 2021.

DATED this 23rd day of April, 2021.

BACKUS, CARRANZA & BURDEN

Angulo Law Group

By: /s/ Edgar Carranza
 Edgar Carranza, Esq.
 Nevada Bar No. 5902
 3050 South Durango Drive
 Las Vegas, Nevada 89117
 Attorney for Defendants
 COSTCO WHOLESALE
 CORPORATION

By: /s/ Peter M. Angulo
 Peter M. Angulo, Esq.
 Nevada Bar No. 3672
 5545 S. Mountain Vista Street, Suite F
 Las Vegas, Nevada 891206
 Attorneys for Plaintiff
 MICHELLE CHISM

IT IS SO ORDERED...

DATED this 26th day of April, 2021.


 UNITED STATES MAGISTRATE JUDGE

BACKUS, CARRANZA & BURDEN
 3050 SOUTH DURANGO
 LAS VEGAS, NEVADA 89117
 TELE: (702) 872-5555 FAX: (702) 872-5545

Patti Sherretts

From: manthis@angulolawgroup.com
Sent: Friday, April 23, 2021 11:19 AM
To: Patti Sherretts
Subject: RE: Chism

It is good. Please use Peter's e-signature.

Margaret Anthis, Legal Secretary
Angulo Law Group, LLC
5545 S. Mountain Vista Street, Suite F
Las Vegas, Nevada 89120
(702) 384-8000
manthis@angulolawgroup.com

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From: Patti Sherretts <pattisherretts@backuslaw.com>
Sent: Friday, April 23, 2021 11:18 AM
To: manthis@angulolawgroup.com
Subject: Chism

See attached.

Thanks.

Patti Sherretts
Legal Assistant to:
Edgar Carranza, Esq.,
Leland Eugene Backus, Esq.,
Backus, Carranza & Burden
3050 South Durango
Las Vegas, Nevada 89117
(702) 872-5555
(702) 872-5545 Facsimile